

REMARKS

Claim 10 is canceled without prejudice, and therefore claims 5 to 9 and 11 to 20 are now pending.

With respect to paragraph seven (7) of the Final Office Action, Applicants thank the Examiner for indicating that claims 10 to 13 and 17 to 20 contain allowable subject matter. While the rejections may not be agreed with, to facilitate matters, claim 5 now includes the features of claim 10, which has been canceled without prejudice. The dependence of claim 11 has been changed from claim 10 to claim 5. Claim 17 has been rewritten as an independent claim as suggested. Accordingly, it is respectfully requested that the objections to the claims be withdrawn.

In paragraph three (3) of the Office Action, claims 5 and 6 were rejected under 35 U.S.C. § 102(e) as anticipated by Janky et al., U.S. Patent No. 6,067,031 ("Janky").

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(b), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (*See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)).

While the anticipation rejections may not be agreed with, to facilitate matters, claim 5 now includes the feature of claim 10, and is therefore allowable, as is its dependent claim 6.

With respect to paragraph five (5) of the Office Action, claims 7, 8 14 and 15 were rejected under 35 U.S.C. § 103(a) as unpatentable over the Janky reference.

As regards the obviousness rejection, to reject a claim as obvious under 35 U.S.C. § 103, the prior art must disclose or suggest each claim element and it must also provide a motivation or suggestion for combining the elements in the manner contemplated by the claim. (*See Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); *In re Bond*, 910 F.2d 831, 834 (Fed. Cir. 1990)). Thus, the "problem confronted by the inventor must be considered in determining whether it would have been obvious to combine the references in order to solve the problem". *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 679 (Fed. Cir. 1998).

While the rejections may not be agreed with, to facilitate matters, claim 5 now includes the features of canceled claim 10, and is therefore allowable, as are its dependent claims 7, 8, 14 and 15.

Appl. No. 10/070,971

Att. Docket No. 10191/2290

Response To Final Office Action of 12/31/03

With respect to paragraph six (6) of the Office Action, claims 9 and 16 were rejected under 35 U.S.C. § 103(a) as unpatentable over the Janky reference in view of Schierbeck et al., U.S. Patent No. 5,812,321.

While the rejections may not be agreed with, to facilitate matters, claim 5 now includes the features of canceled claim 10, and is therefore allowable, as are its dependent claims 9 and 16.

In summary, it is respectfully submitted that all of claims 5 to 9 and 11 to 20 of the present application are allowable at least for the foregoing reasons.

CONCLUSION

In view of the foregoing, it is believed that the objections and rejections have been obviated, and that claims 5 to 9 and 11 to 20 are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn, and that the present application issue as early as possible.

Respectfully submitted,
KENYON & KENYON

Dated: 3/29/2004 By: Richard L. Mayer
Richard L. Mayer
(Reg. No. 22,490)

One Broadway
New York, New York 10004
(212) 425-7200

*neg. no.
33,865
Aaron C
DEN, TCH)*

CUSTOMER NO. 26646

661234